

106TH CONGRESS
1ST SESSION

S. 1510

To revise the laws of the United States appertaining to United States cruise vessels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 1999

Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mrs. FEINSTEIN, and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To revise the laws of the United States appertaining to United States cruise vessels, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF SECTIONS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “United States Cruise Ship Tourism Development Act of
6 1999”.

7 (b) TABLE OF SECTIONS.—The table of sections for
8 this Act is as follows:

Sec. 1. Short title; table of sections.

Sec. 2. Definitions.

TITLE I—OPERATIONS UNDER PERMIT

Sec. 101. Domestic cruise vessel.

Sec. 102. Domestic itinerary operating requirements.

Sec. 103. Certain operations prohibited.

Sec. 104. Limited employment of eligible cruise vessels in the coastwise trade of the United States.

Sec. 105. Priorities within domestic markets.

Sec. 106. Construction standards.

TITLE II—POST-PERMIT OPERATIONS OF ELIGIBLE CRUISE VESSELS

Sec. 201. Continued operation in domestic itinerary requirements.

TITLE III—OTHER PROVISIONS

Sec. 301. Amendment of title XI of the Merchant Marine Act, 1936.

Sec. 302. Application with Jones Act and other Acts.

Sec. 303. Glacier Bay and other National Park Service area permits.

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) ELIGIBLE CRUISE VESSEL.—The term “eli-
4 gible cruise vessel” means a cruise vessel that—

5 (A) is documented under the laws of the
6 United States or the laws of another country;

7 (B) is not otherwise qualified to engage in
8 the coastwise trade between ports in the United
9 States;

10 (C) was delivered after January 1, 1980;

11 (D) provides a full range of overnight ac-
12 commodations, entertainment, dining, and other
13 services for its passengers;

14 (E) has a fixed smoke detection and sprin-
15 kler system installed throughout the accommo-
16 dation and service spaces, or will have such a
17 system installed within the time period required
18 by the 1992 Amendments to the Safety of Life
19 at Sea Convention of 1974; and

1 (F) displaces—

2 (i) greater than 20,000 gross reg-
3 istered tons; or

4 (ii) more than 9,000 gross registered
5 tons and has an all-suites luxury configu-
6 ration with a minimum of 240 square feet
7 per revenue room.

8 (2) ITINERARY.—The term “itinerary” means
9 the route travelled by a cruise vessel on a single voy-
10 age that begins at the first port of embarkation for
11 passengers on that voyage, includes each port at
12 which the vessel docks before the last port of disem-
13 barkation for such passengers, and ends at that last
14 port of disembarkation.

15 (3) OPERATING DAY.—The term “operating
16 day” means a day of the week on which a vessel em-
17 barks, transports, or disembarks passengers.

18 (4) OPERATOR.—The term “operator” means
19 the owner, operator, or charterer.

20 (5) SECRETARY.—The term “Secretary” means
21 the Secretary of Transportation.

22 (6) UNITED STATES-FLAG VESSEL.—The term
23 “United States-flag vessel” means a vessel docu-
24 mented under subsection (a) or (d) of section 12102
25 of title 46, United States Code.

1 **TITLE I—OPERATIONS UNDER**
2 **PERMIT**

3 **SEC. 101. DOMESTIC CRUISE VESSEL.**

4 (a) IN GENERAL.—Notwithstanding the provisions of
5 section 8 of the Act of June 19, 1886 (46 U.S.C. App.
6 289), or any other provision of law, the Secretary may
7 issue a permit for an eligible cruise vessel to operate in
8 domestic itineraries in the transportation of passengers in
9 the coastwise trade between ports in the United States.

10 (b) MAXIMUM OPERATING DAYS.—An eligible cruise
11 vessel not documented under the laws of the United States
12 that is operated under a permit issued by the Secretary
13 under subsection (a) may not be operated under that per-
14 mit for more than 200 operating days.

15 (c) EXPIRATION OF PERMIT AUTHORITY.—Except as
16 otherwise provided in section 201 of this Act, a permit
17 issued by the Secretary under subsection (a) shall termi-
18 nate December 31, 2006.

19 (d) OPERATING WINDOW.—The authority of the Sec-
20 retary to issue a permit under subsection (a) begins on
21 the day after the date of enactment of this Act and termi-
22 nates on the day that is 3 years after that date.

1 **SEC. 102. DOMESTIC ITINERARY OPERATING REQUIRE-**
2 **MENTS.**

3 (a) IN GENERAL.—Except as provided in section 104
4 of this Act, the Secretary may not approve an itinerary
5 for a voyage commencing less than 1 year after the date
6 of enactment of this Act requested by an eligible cruise
7 vessel that is not documented under the laws of the United
8 States.

9 (b) REGULATORY REQUIREMENTS.—The Secretary
10 may not issue a permit under section 101(a) for an eligible
11 cruise vessel not documented under the laws of the United
12 States unless the operator establishes to the satisfaction
13 of the Secretary that, except as otherwise provided in this
14 Act, the vessel will be operated in full compliance with all
15 rules, regulations, and operating requirements relating to
16 health, safety, environmental protection and other appro-
17 priate operational standards (as determined by the Sec-
18 retary), that would apply to any United States-flag cruise
19 vessel operating in domestic itineraries in the transpor-
20 tation of passengers under a permit issued under section
21 101(a). The Secretary shall issue final rules under this
22 section within 180 days after the date of enactment of
23 this Act.

24 (c) REPAIRS.—

25 (1) IN GENERAL.—The Secretary may not issue
26 a permit under section 101(a) for an eligible cruise

1 vessel unless the operator establishes to the satisfac-
2 tion of the Secretary that—

3 (A) any repair, maintenance, alteration, or
4 other preparation of the vessel for operation
5 under a permit issued under section 101(a) has
6 been, or will be, performed in a United States
7 shipyard; and

8 (B) any repair or maintenance of the ves-
9 sel after a permit is issued under that section
10 and before the expiration of the operating limi-
11 tation period in section 101(b) will be per-
12 formed in a United States shipyard.

13 (2) WAIVER.—The Secretary may waive the re-
14 quirements of paragraph (1) if the Secretary finds
15 that the repair, maintenance, alterations, or other
16 preparation services are not available in the United
17 States or if an emergency dictates that the ship pro-
18 ceed to a foreign port.

19 (d) ESCROW ACCOUNT.—The Secretary may not
20 issue a permit under section 101(a) for an eligible cruise
21 vessel unless the operator agrees to deposit \$5 for each
22 passenger embarking on that vessel while operating under
23 the permit into the escrow fund established under section
24 1108 of the Merchant Marine Act, 1936 (46 U.S.C. App.
25 1270a).

1 (e) COMPLIANCE.—If the Secretary determines that
 2 an eligible cruise vessel is not in compliance with any com-
 3 mitment made to the Secretary by its operator under this
 4 Act, the permit issued for that vessel under section 101(a)
 5 shall be null and void.

6 **SEC. 103. CERTAIN OPERATIONS PROHIBITED.**

7 An eligible cruise vessel operating in domestic
 8 itineraries under a permit issued under section 101(a)
 9 may not—

10 (1) operate as a ferry;

11 (2) regularly carry for hire both passengers and
 12 vehicles or other cargo; or

13 (3) operate between or among the islands of
 14 Hawaii.

15 **SEC. 104. LIMITED EMPLOYMENT OF FOREIGN-FLAG**
 16 **CRUISE SHIPS IN THE COASTWISE TRADE OF**
 17 **THE UNITED STATES.**

18 (a) IN GENERAL.—Notwithstanding section 12106 of
 19 title 46, United States Code, section 27 of the Merchant
 20 Marine Act, 1920 (46 U.S.C. App. 883), and section 8
 21 of the Act of June 19, 1886 (46 U.S.C. App. 289), the
 22 Secretary may approve the employment in the coastwise
 23 trade of the United States of an eligible cruise vessel oper-
 24 ating under a permit issued under section 101(a) of this

1 Act for repositioning as provided by under subsection (b)
2 or for charter as provided by subsection (c).

3 (b) REPOSITIONING.—An eligible cruise vessel not
4 documented under the laws of the United States operating
5 under a permit issued under section 101(a) of this Act
6 may be employed in the coastwise trade during the first
7 year after the date of enactment of this Act for not more
8 than 2 voyages, the coastwise trade portion of which does
9 not exceed 2 weeks and includes transportation of pas-
10 sengers for hire—

11 (1) from one coast of the United States through
12 the Panama Canal to another coast of the United
13 States; or

14 (2) along one coast of the United States during
15 a voyage between 2 foreign countries.

16 (c) CHARTERS.—An eligible cruise vessel not docu-
17 mented under the laws of the United States operating
18 under a permit issued under section 101(a) of this Act
19 may be employed in the coastwise trade during the first
20 year after the date of enactment of this Act if it is time-
21 chartered to a charterer that—

22 (1) does not own or operate a cruise ship; and

23 (2) is not affiliated with an owner or operator
24 of a cruise ship.

1 (d) PRIORITIES.—Section 105 applies to vessels em-
2 ployed in the coastwise trade under this section.

3 **SEC. 105. PRIORITIES WITHIN DOMESTIC MARKETS.**

4 (a) IN GENERAL.—The Secretary shall, by regula-
5 tion, establish a priority system for cruise vessels pro-
6 viding passenger service in domestic itineraries within 180
7 days after the date of enactment of this Act.

8 (b) PRIORITY TO U.S.-BUILT OR U.S.-REBUILT VES-
9 SELS.—Under the regulations to be prescribed by the Sec-
10 retary, a cruise vessel built or rebuilt in the United States
11 and documented under the laws of the United States shall
12 have priority over any other cruise vessel of comparable
13 size operating in a comparable market under a permit
14 issued under section 101(a).

15 (c) PRIORITY TO U.S.-FLAG VESSELS.—The Sec-
16 retary shall prescribe regulations under which a cruise ves-
17 sel documented under the laws of the United States that
18 is not built or rebuilt in the United States has priority
19 over an eligible cruise vessel of comparable size not docu-
20 mented under the laws of the United States that is oper-
21 ating in a comparable market.

22 (d) FACTORS CONSIDERED.—In determining and as-
23 signing priorities under the regulations, the Secretary
24 shall consider, among other factors determined by the Sec-
25 retary to be appropriate—

1 (A) the scope of a vessel's itinerary;

2 (B) the time frame within which the vessel
3 will serve a particular itinerary; and

4 (C) the size of the vessel.

5 (e) IMPLEMENTATION.—

6 (1) ITINERARY SUBMISSION REQUIRED.—An el-
7 igible cruise vessel may not be operated in a domes-
8 tic itinerary unless the operator has submitted a
9 proposed itinerary for that vessel, in accordance with
10 this subsection, for cruise itineraries for the calendar
11 year beginning 2 years after the date on which the
12 itinerary is required to be submitted under para-
13 graph (2).

14 (2) TIME AND MANNER OF SUBMISSION.—Each
15 operator of an eligible cruise vessel to be operated in
16 a domestic itinerary shall submit a proposed
17 itinerary to the Secretary in the form required by
18 the Secretary in February of each year beginning
19 after the date of enactment of this Act.

20 (3) REVISIONS AND LATER SUBMISSIONS.—The
21 Secretary shall permit late submissions and revisions
22 of submissions after the final list of approved
23 itineraries is published under paragraph (4)(C) and
24 before the date that is 90 days before the start date
25 of a requested itinerary, but a late submission or re-

vision by a higher priority cruise vessel may not displace a priority assigned on the basis of timely submission by a lower priority cruise vessel. If operators of comparable vessels submit comparable requests within 30 days of each other, the priorities of this section apply at the discretion of the Secretary.

(4) SCHEDULING.—

(A) ACTION BY SECRETARY.—Within 60 days after receiving an itinerary submitted under this subsection, the Secretary shall—

(i) review the schedule for compliance with the priorities established by this section;

(ii) advise affected cruise ship operators of any specific itinerary that is not available and the reason it is not available; and

(iii) publish a proposed list of approved itineraries.

(B) OPERATORS RESPONSE.—If the Secretary advises an operator under subparagraph (A)(ii) that a requested itinerary is not available, the operator may respond to the Secretary's advice within 30 days after it is received by the operator by appealing the Sec-

retary's decision or by submitting a new
itinerary proposal.

(C) RESOLUTION OF CONFLICTS.—As soon
as practicable after the end of the 30-day pe-
riod described in subparagraph (B), the Sec-
retary shall—

(i) resolve any appeals and consider
new itinerary proposals;

(ii) advise cruise ship operators who
responded under subparagraph (B) of the
Secretary's decision with respect to the ap-
peal or the new itinerary proposal; and

(iii) publish a final list of approved
itineraries.

(f) ITINERARIES BEFORE FINAL LIST IS FIRST PUB-
LISHED.—

(1) REQUESTS.—For itineraries before the first
calendar year for which the Secretary publishes a
final list of approved itineraries under subsection
(e), the operator of a cruise vessel may submit a re-
quest for an itinerary to be sailed before that cal-
endar year.

(2) CONFLICTING HIGHER PRIORITY USE.—If
the itinerary submitted by an operator under para-
graph (1) conflicts with an itinerary in use by a ves-

1 sel with a higher priority under this section, the Sec-
2 retary shall disapprove the request and notify the
3 operator of the disapproval and the reason for the
4 disapproval within 5 days (Saturdays, Sundays, and
5 legal public holidays (as defined in section 6103 of
6 title 5, United States Code, excepted) after the re-
7 quest is received.

8 (3) NO INITIAL CONFLICT.—If the itinerary
9 submitted by an operator under paragraph (1) does
10 not conflict with an itinerary in use by a vessel with
11 a higher priority under this section, the Secretary
12 shall publish the request and the requested itinerary
13 immediately. If, within 30 days after the request is
14 published, the operator of a cruise vessel with a
15 higher priority under this section requests the use of
16 the published itinerary, then the Secretary shall
17 deny the published request and approve the request
18 for the higher priority vessel. If no operator of a
19 cruise vessel with a higher priority under this section
20 requests the use of the published itinerary within 30
21 days after it is published, the Secretary shall ap-
22 prove the requested itinerary and publish notice of
23 the approval.

24 (4) PUBLICATION OF INTERIM ITINERARIES.—
25 Until the first publication of a final list of approved

1 itineraries under subsection (e), the Secretary shall
2 publish, on a quarterly basis, a list of itineraries ap-
3 proved under this subsection.

4 (g) REPORT.—The Secretary shall issue an annual
5 report on the number of operating days used by each
6 cruise vessel assigned a priority under this section.

7 **SEC. 106. CONSTRUCTION STANDARDS.**

8 An eligible cruise vessel for which the Secretary has
9 issued a permit under section 101(a) is deemed to be in
10 compliance with the requirements of section 3309 of title
11 46, United States Code, if it meets the standards and con-
12 ditions for the issuance of a control verification certificate
13 for a cruise vessel documented under the laws of a foreign
14 country embarking passengers in the United States.

15 **TITLE II—POST-PERMIT OPER-**
16 **ATIONS OF ELIGIBLE CRUISE**
17 **VESSELS**

18 **SEC. 201. CONTINUED OPERATION IN DOMESTIC**
19 **ITINERARY REQUIREMENTS.**

20 (a) IN GENERAL.—After the expiration of its period
21 of operations under a permit issued under section 101(a),
22 an eligible cruise vessel not documented under the laws
23 of the United States may not operate in domestic
24 itineraries unless it meets the following conditions:

1 (1) DOCUMENTATION.—The vessel has been
2 issued a certificate of documentation with a coast-
3 wise endorsement.

4 (2) OPERATING CREW; SUPPORT STAFF.—Each
5 member of the vessel’s operating crew licensed or
6 certified by the United States Coast Guard is a cit-
7 izen or resident alien of the United States as re-
8 quired by section 8103 of title 46, United States
9 Code, and each individual employed aboard the ves-
10 sel who is not a member of the operating crew is a
11 citizen or permanent resident of the United States.

12 (b) CONSTRUCTION PLAN.—The operator of an eligi-
13 ble cruise vessel issued a permit under section 101(a) of
14 this Act shall demonstrate to the satisfaction of the Sec-
15 retary that, as of the date on which the vessel is docu-
16 mented under the laws of the United States—

17 (1) it has a plan for the construction of a cruise
18 vessel in the United States; or

19 (2) it is a party to, or has made substantial
20 progress toward entering into, an enforceable con-
21 tract for the construction of such a vessel in the
22 United States.

23 (c) EXPIRATION OF COASTWISE ENDORSEMENT.—
24 The coastwise endorsement for an eligible cruise vessel op-
25 erating under subsection (a) shall expire 24 months after

1 the date on which construction is completed on the last
 2 vessel the operator of the eligible cruise vessel is obligated
 3 to construct in the United States under the contract de-
 4 scribed in subsection (b).

5 (d) REFLAGGING UNDER FOREIGN REGISTRY.—Not-
 6 withstanding section 9(c) of the Shipping Act, 1916 (46
 7 U.S.C. App. 808), the operator of an eligible cruise ship
 8 issued a certificate of documentation with a coastwise en-
 9 dorsement, or a cruise vessel constructed under a contract
 10 described in subsection (a)(4), may place that vessel under
 11 foreign registry. The Secretary shall revoke the coastwise
 12 endorsement for any such vessel placed under foreign reg-
 13 istry under this subsection permanently. Any vessel the
 14 coastwise endorsement for which is revoked under this
 15 subsection is not eligible thereafter for coastwise endorse-
 16 ment.

17 **TITLE III—OTHER PROVISIONS**

18 **SEC. 301. AMENDMENT OF TITLE XI OF THE MERCHANT MA-**

19 **RINE ACT, 1936.**

20 (a) RISK FACTOR.—Section 1103(h) of the Merchant
 21 Marine Act, 1936 (46 U.S.C. App. 1103(h)) is amended
 22 by adding at the end thereof the following:

23 “(5) For purposes of the risk factor described
 24 in paragraph (3)(I), the Secretary shall consider an
 25 applicant for a guarantee, or a commitment to guar-

1 antee, under subsection (a) an obligation in connec-
 2 tion with a contract described in section 201(a)(4)
 3 of the United States Cruise Ship Tourism Develop-
 4 ment Act of 1999 to possess the necessary operating
 5 ability, experience, and expertise required if the ap-
 6 plicant demonstrates to satisfaction of the Secretary
 7 that its personnel have the experience and ability to
 8 operate cruise vessels.”.

9 (b) QUALIFICATIONS.—Section 1104A(b) of the Mer-
 10 chant Marine Act, 1936 (46 U.S.C. App. 1274(b)) is
 11 amended by adding at the end thereof the following:

12 “For purposes of paragraph (1), the Secretary
 13 shall consider an obligor with a contract described in
 14 section 201(b)(2) of the United States Cruise Ship
 15 Tourism Development Act of 1999 to possess the
 16 ability necessary to the adequate operation and
 17 maintenance of the cruise vessel that serves as secu-
 18 rity for the guarantee of the Secretary if the obligor
 19 demonstrates to the satisfaction of the Secretary
 20 that its personnel have the experience and ability to
 21 operate cruise vessels.”.

22 **SEC. 302. APPLICATION WITH JONES ACT AND OTHER ACTS.**

23 (a) IN GENERAL.—Nothing in this Act affects or oth-
 24 erwise modifies the authority contained in—

1 (1) Public Law 87–77 (46 U.S.C. App. 289b)
 2 authorizing the transportation of passengers and
 3 merchandise in Canadian vessels between ports in
 4 Alaska and the United States; or

5 (2) Public Law 98–563 (46 U.S.C. App. 289c)
 6 permitting the transportation of passengers between
 7 Puerto Rico and other United States ports.

8 (b) JONES ACT.—Nothing in this Act affects or
 9 modifies the Merchant Marine Act, 1920 (46 U.S.C. App.
 10 861 et seq.).

11 **SEC. 303. GLACIER BAY AND OTHER NATIONAL PARK SERV-**
 12 **ICE AREA PERMITS.**

13 Notwithstanding the last sentence of section 3(g) of
 14 Public Law 91–383 (16 U.S.C. 1a–2(g)), the Secretary
 15 of the Interior, after consultation with the Secretary of
 16 Transportation, may issue new or otherwise available per-
 17 mits to United States-flag vessels carrying passengers for
 18 hire to enter Glacier Bay or any other area within the
 19 jurisdiction of the National Park Service. Any such permit
 20 shall not affect the rights of any person that, on the date
 21 of enactment of this Act, holds a valid permit to enter
 22 Glacier Bay or such other area.

○